

REMARKS

This Amendment and Response is responsive to the Final Office Action mailed August 10, 2004. In that action: claims 28-30, 32-37, and 39-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Miloslavsky (USPN 6,259, 774) in view of Andrews, et al. (USPN 5,848,143) and in further view of Beck et al. (USPN 6,332,154). Reconsideration of the rejections of the pending claims is hereby requested for the reasons discussed below.

In discussing the Applicant's arguments at pages 2 and 3 of the Office Action, the Examiner asserts that Andrews does disclose the relevant limitation and then nearly word-for-word repeats the text from the cited portion of the Andrews patent. The problem with the argument made by the Examiner is that nowhere in his cited passage does Andrews disclose any of (1) storing the preferred time for the call back; (2) periodically searching the memory; or (3) automatically scheduling the call back with an identified service agent. Andrews does disclose that if the caller indicates that a call back is desirable, then the central controller may record this and other information useful for later processing of the call (col. 16, lines 64-66). This is not a disclosure of any of the three limitations discussed above. Instead, it is only (a) recording the fact that a caller would like to be called back as opposed to (b) storing the time when the caller would like to be called back. None of the other cited references makes up for this deficiency in Andrews. As is stated in MPEP 706.02(j), the prior art reference (or combination of references) must teach or suggest all the claim limitations.

Furthermore, the combination of these references is only made through hindsight. "The references must suggest the combination." MPEP 2141. "The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention." MPEP

2141. "The prior art must suggest the desirability of the claimed invention." MPEP 2143.01. In response to Applicant's previous argument about the use of impermissible hindsight, the Examiner merely restates a quote from a 1971 CCPA case that is provided at MPEP 2145(X). In light of the hundreds of Federal Circuit decisions that have been made against the use of hindsight over the past 20 years, this quote and case do not appear very relevant or convincing.

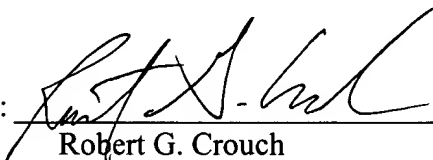
The only statements that can be found in the Office Action that possibly imply why one might have been motivated to combine the references is "[t]herefore, the modified system would have been enable (sic) the agent or company representative to respond intelligently and efficiently to customer problems" on page 7 in discussing the rejection of claim 28 and "[t]herefore, the combined system would have been enable (sic) the user to knows (sic) when to expect a return call rather than waiting for an unknown period of time" on page 9 in discussing the rejection of claim 36. How these conclusory, unsupported statements can be convincing of anything is not understood.

In summary, it is respectfully submitted that this rejection is unlikely to survive appeal. Even if one were to combine the teachings of these references with impermissible hindsight, one would not obtain the claimed invention. For these reasons, it is respectfully submitted that claims 28 and 36 and all claims dependent thereon (claims 29, 30, 32-35, 37, and 39-43) are patentable.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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